

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JON ROYAL FLEMING,

Petitioner,

v.

KEN QUINN,

Respondent.

Case No. C05-5719RJB

ORDER DENYING COUNSEL
AND GRANTING IN PART
AND DENYING IN PART
PETITIONER'S MOTION FOR
AN EXTENSION OF TIME

This 28 U.S.C. § 2254 petition for habeas corpus relief has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 (b) and local Rules MJR 3 and 4. Petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254.

Petitioner has asked for appointment of counsel. (Dkt. # 9). There is no right to have counsel appointed in cases brought under 28 U.S.C. §2254 unless an evidentiary hearing is required, because the action is civil, not criminal, in nature. See Terravona v. Kincheloe, 852 F.2d 424, 429 (9th Cir. 1988); Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1992); and Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts. An evidentiary hearing has not been granted in this case. Further, the claims in the petition are adequately set forth and articulated.

1 Petitioner's motion for appointment of counsel is therefore **DENIED**.

2 To the extent that petitioner seeks an extension of time to reply to the response to his motion
3 for appointment of counsel that motion is also **DENIED**. (Dkt. # 18). Petitioner's motion for an
4 extension of time to file a traverse to the answer is **GRANTED**. (Dkt. # 18).

5 The clerk is directed to note this matter for 60 days from today to give petitioner an
6 opportunity to file a traverse. The clerk is further directed to send copies of this order to petitioner
7 and counsel for respondent

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9 DATED this 30th day of January, 2006.

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11 /s/ J. Kelley Arnold
12 J. Kelley Arnold
13 United States Magistrate Judge
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